

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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C.L.,

Plaintiff,

**COMPLAINT**

-against-

DIOCESE OF BROOKLYN and ST. BENEDICT  
JOSEPH LABRE PARISH,

Index No. \_\_\_\_\_

Defendant.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, C.L., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

**Introduction**

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when she was a minor, was sexually assaulted by Peter Mastrandrea, a teacher, at St. Benedict Joseph Labre School and Thomas William Hendel (hereafter “Father Hendel”), a Priest of the Diocese of Brooklyn, who was assigned to St. Benedict Joseph Labre Parish.

**Parties, Jurisdiction and Venue**

1. Plaintiff C.L. is a citizen and resident of the State of New York.
2. Defendant, Diocese of Brooklyn (hereafter, the “Diocese” or the “Diocese of Brooklyn”), is a religious institution and organization with principal offices located at 310 Prospect Road West, Brooklyn, New York. The Diocese of Brooklyn controls all Catholic religious, pastoral and educational functions in the boroughs of Brooklyn and Queens, encompassing

approximately 180 parishes and 210 churches. The Diocese is a citizen and resident of the State of New York. Defendant Diocese controlled all Catholic schools within its jurisdiction, including Defendant St. Benedict Joseph Labre School. Any priest ministering within the Diocese's territory may only do so with the authority of Diocese.

3. Defendant, St. Benedict Joseph Labre School (hereafter the "School"), operated by Defendant, St. Benedict Joseph Labre Parish, was a Catholic school located in South Richmond Hill, New York. The School ceased operation in 2009.

4. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

5. Personal jurisdiction lies over Defendant Diocese of Brooklyn as it is present and domiciled in the State of New York.

6. Venue of this action lies in Kings County as a substantial part of the events or omissions giving rise to the claim occurred in Kings County or one of the Defendants resides in Kings County.

#### **Facts of Sexual Abuse**

7. Plaintiff was a student at the School, in South Richmond Hill, New York.

8. Upon information and belief, at all relevant times Peter Mastrandrea was a teacher at St. Benedict Joseph Labre School in the early to mid-1980s.

9. At all relevant times Father Hendel was a priest employed by the Diocese of Brooklyn. He also served as a Priest at St. Benedict Joseph Labre School.

10. Peter Mastrandrea and Father Hendel sexually assaulted Plaintiff on multiple occasions, beginning in approximately 1983.

11. From the ages of five to approximately seven years old, Peter Mastrandrea and Father Hendel pulled Plaintiff out of class and took her to a teacher's lounge to sexually assault Plaintiff.

12. Upon information and belief, Peter Mastrandrea was at all relevant times a serial sexual predator who sexually abused multiple children as a teacher. Upon information and belief, the School ignored red flags alerting them to Peter Mastrandrea's sexual misconduct toward students.

13. Peter Mastrandrea was later charged with sex abuse and endangering the welfare of a minor student in June 2003 for acts committed in 2001 while he was a teacher at St. Benedict Joseph Labre School.

14. At all relevant times, the Diocese knew or in the exercise of reasonable care should have known that Father Hendel had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

15. At all relevant times, it was reasonably foreseeable to the Diocese that Father Hendel would commit acts of child sexual abuse or assault on a child.

16. At all relevant times, the Diocese knew or should have known that Father Hendel was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

17. With such actual or constructive knowledge, the Diocese provided Father Hendel unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

**Diocese's Concealment of Acts of Sexual Abuse by Priests**

18. The Bishop of the Diocese at all relevant times knew that Priests of the Diocese, under his supervision and control, were grooming and sexually molesting children with whom the Priests would have contact in their ministry and pastoral functions. At all relevant times, the Bishop knew that this was a widespread, ubiquitous and systemic problem in the Diocese, involving many Priests and numerous victims.

19. On or about February, 2019, the Diocese released a list of over 100 Priests of the Diocese, acknowledging what it deemed credible allegations of child sexual abuse that had been made against the listed Priests. These Priests are acknowledged to have abused children within the Diocese of Brooklyn over decades.

20. Despite receiving credible allegations of child sexual abuse against Priests, the Diocese acted to conceal these allegations in an effort to avoid scandal and accountability.

21. This concealment was in accordance with a policy of the Diocese, as agent, and the Holy See, as principal. In 1922, the Holy See released a confidential document to its Bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the Diocese, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

22. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy

Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries 'Even of the Oriental Rite,'" and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an "instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail." *Crimen Sollicitationis* at paragraph 24.

23. The 1962 document reinforced that the Holy See and its agents to whom the documents was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

24. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Fr. Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

25. Fr. Fitzgerald's reports were kept secret under the Holy See's standing policy to avoid scandal at all costs. It's recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the Diocese, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

26. The Holy See's policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating Priests from consequence. Through this policy and others the Holy

See and its agents, including the Diocese, knowingly allowed, permitted and encouraged child sex abuse by the Diocese's Priests.

27. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be "delinquent." In response to allegations, the document mandates that supplementary penalties include: "As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place." *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassignments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

28. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the Diocese, in 1988 and 2001.

29. The policies and practices of the Diocese designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- (a) transfer and reassignment of clergy known or suspected to abuse minors to deflect attention from reports or allegations of child sexual abuse;
- (b) concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- (c) failing to alert parishioners from the Priest's prior assignments that their children were exposed to a known or suspected child molester;

- (d) failing to report sexual abuse to criminal authorities; and
- (e) otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

30. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and Diocese believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling Priests.

31. Plaintiff was in a zone of foreseeable harm as a child engaged in Catholic activities in close proximity to or with Catholic clergy.

32. The Diocese was in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its Priests to sexually abuse children.

33. At all relevant times, while the Diocese had special and unique knowledge of the risk of child sexual abuse by its Priests, such Priests who would prey on children were outside the reasonable contemplation of the Catholic community and families who trusted Priests to have access to their children.

34. Plaintiff and her parents had no opportunity to protect Plaintiff against a danger that was solely within the knowledge of the Diocese.

35. Upon information and belief, after Plaintiff was abused, the Diocese engaged in a plan and scheme pursuant to the Holy See's secrecy policies and practices to avoid discovery of Father Hendel's child sexual abuse and the Diocese's wrongful conduct which facilitated the sexual abuse of young children.

#### **Nature of Conduct Alleged**

36. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of

sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

37. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Father Hendel, to retain Father Hendel in ministry with unfettered access to children.

**COUNT I**  
**NEGLIGENCE**  
(DIOCESE OF BROOKLYN)

38. Plaintiff C.L. repeats and realleges Paragraphs 1 through 37 above.

39. At all material times, the DIOCESE and Plaintiff were in a special relationship, in which the DIOCESE owed Plaintiff a duty of reasonable care.

40. At all material times, the DIOCESE and Father Hendel were in a special relationship of employer – employee, in which the DIOCESE owed a duty to control the acts and conduct of Father Hendel to prevent foreseeable harm.

41. The DIOCESE owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the DIOCESE. The DIOCESE's duties encompassed the retention and supervision of Father Hendel and otherwise providing a safe environment for Plaintiff.

42. The DIOCESE breached these duties by failing to protect the Plaintiff from sexual assault and lewd and lascivious acts committed by an agent and employee of the DIOCESE.

43. At all relevant times, the DIOCESE created an environment which fostered child



51. At all material times, the School and Peter Mastrandrea were in a special relationship of employer – employee, in which the School owed a duty to control the acts and conduct of Father Hendel to prevent foreseeable harm.

52. The Church owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the Church. The Church's duties encompassed the retention and supervision of Father Gillen and otherwise providing a safe environment for Plaintiff.

53. The Church breached these duties by failing to protect Plaintiff from sexual assault and lewd and lascivious acts committed by an agent and employee of the Church.

54. At all relevant times, the Church created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

55. At all relevant times, the Church had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

56. As a direct and proximate result of the Church's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

57. The Church's acts and conduct shows a reckless or willful disregard for the safety and well-being of Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Church for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**JURY TRIAL DEMAND**

Plaintiff demands a trial by jury and all issues so triable as a matter of right.

Dated: New York, New York  
September 20, 2019

Respectfully submitted,

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By: \_\_\_\_\_

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